

#10
Reply Brief
S. Zimmerman

Attorney Docket No.: DGL-10002/15

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Glen Davis

Serial No.: 09/837,824

Examiner: Steven B. Wong

Filed: April 18, 2001

Group Art Unit: 3711

For: WATER SKIPPING ARTICLE INCORPORATING ELLIPTICAL
OUTLINE AND HOLLOWED INTERIOR CORE

REPLY BRIEF

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: Board of Patent Appeals

Dear Sir or Madam:

Applicant is in receipt of the Examiner's Answer, dated January 28, 2003. In response to the new points raised by the Examiner, Applicant replies as follows.

The Hand reference, in particular the disclosure of Fig. 5, teaches body members 41 and 42 joined at contact area 44 such that they form a rounded outer edge section 45. The Examiner averred, from the illustrations of Fig. 2 and, more specifically, Fig. 5 in Hand, that the faces 41 and 42 and hollow interior cavity 57 are "clearly oval" and are therefore formed by elliptical surfaces.

It is again respectfully submitted that the argument of elliptical inner and outer surfaces in Hand is no more than an unsupported imputation of structure which is not present. The Examiner's position that the cutaway side views make clear that the surfaces in Hand are oval, and therefore elliptical in nature. Applicant clearly disagrees on this point. It is further submitted, contrary to the Examiner's opinion, that one of ordinary skill in the art would not be led to believe that the rounded surfaces in Hand are elliptical in cross section. It is further respectfully submitted that a rounded surface, to the extent that the Hand reference discloses

this, does not anticipate or render obvious the features of elliptical surfaces. This is a focal difference in position between Applicant and the Examiner as to claim 1.

As again has been repeatedly stated herein, the key feature of the inner and outer elliptical configurations (as also discussed in reference to the different ratios established by these inner and outer configurations in claims 3, 5-8 and 10) is to create the outward and centrifugal forces necessary to establish the desired gyroscopic effect of the water skipping article and to thereby increase the individual incidences of the article contacting the water surface. The Examiner's comments in his answer appear to ignore this argument presented in Applicant's brief, namely that Applicant has failed to provide evidence of a new and unexpected result obtained from the particularly claimed dimensions.

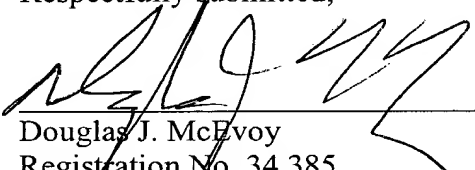
Instead, the Examiner states, on page 5 of the answer, that the statement of gyroscopic effect does not demonstrate any evidence that the dimensions recited provide a new and unexpected result and it would appear that the dimensions and shape as taught by Hand would accomplish similar purposes. In response, Applicant can only once again state that the above-argued distinctions, i.e., the outward centrifugal (gyroscopic) effects created by the inner and outer elliptical configurations, are among the new and "unexpected" results of the claimed elliptical configuration recited in independent claim 1 and that such is not inferred from the disclosure and teachings of Hand.

It is also again submitted that the hydroplaning disk of Glovak, while teaching a biodegradable material, does not teach or suggest the use of such a material in the device in Hand, particularly in view of Hand specifically teaching, in column 2, lines 36-40, that the material is constructed of a plastic, hard rubber or metal. Finally, it is again reiterated that the differences in the elliptical ratios recited in the dependent claims of the present application,

and the general disclosure of rounded surfaces in Hand, do not amount to an obvious and unpatentable modification as averred by the Examiner.

For these reasons, it is respectfully submitted that the Examiner's rejections of the claims be reversed.

Respectfully submitted,



Douglas J. McEvoy
Registration No. 34,385
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009
(248) 647-6000

Date: March 25, 2003

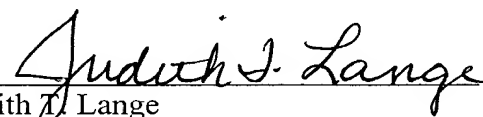
GS-W:\Word Processing\djm\DGL10002-ReplyBrf.doc

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"EXPRESS MAIL" MAILING LABEL NUMBER EV 25516888045

DATE OF DEPOSIT March 26, 2003

I hereby certify that this paper or fee (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Washington D.C. 20231-0001, Attention: Board of Patent Appeals.



Judith I. Lange